



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2022-0689]

RIN 1625-AA09

Drawbridge Operation Regulation; Grand River, Grand Haven, MI

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify the operating schedule that governs the U.S. Route 31 Bridge, mile 2.89, over the Grand River, at Grand Haven, Michigan.

This proposed temporary modification will allow contractors to perform maintenance to the mechanical and electrical systems of the bridge during the winter navigation season.

We invite your comments on this proposed rulemaking.

DATES: Comments and related material must reach the Coast Guard on or before

[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL

REGISTER]. The Coast Guard anticipates that this proposed rule will be effective from November 1, 2022, through May 26, 2023.

ADDRESSES: You may submit comments identified by docket number USCG-2022-0689 using Federal Decision Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Mr. Lee D. Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216-902-6085, e-mail Lee.D.Soule@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
IGLD85	International Great Lakes Datum of 1985
LWD	Low Water Datum based on IGLD85
MDOT	Michigan Department of Transportation
NPRM	Notice of proposed rulemaking
Pub. L.	Public Law
§	Section
U.S.C.	United States Code

II. Background, Purpose and Legal Basis

The MDOT, who owns and operates U.S. Route 31 Bridge, over the Grand River, at Grand Haven, Michigan, has requested this modification to facilitate maintenance of the drawbridge. This proposed rule is necessary to facilitate safe and effective bridge maintenance of the drawbridge, while providing for the reasonable needs of navigation.

The U.S. Route 31 Bridge, mile 2.89, over the Grand River, at Grand Haven, Michigan, provides a horizontal clearance of 155 feet and a vertical clearance in the closed position of 25 feet above LWD and an unlimited clearance in the open position.

The U.S. Route 31 Bridge, mile 2.89, over the Grand River operates under 33 CFR 117.633 providing one opening every hour from March 16 through December 14. From December 15 through March 15, the bridge opens on signal if a 12-hour advance notice is provided.

The Grand River is used primarily by recreational vessels. There is a stone loading facility at approximate mile 2.26 but they have not received barges in several years.

During the winter, the ice in the Grand River prevents recreational vessels from navigating the Grand River safely.

III. Discussion of Proposed Rule

Originally, MDOT requested a deviation September 6, 2022, through October 30, 2022. Under the original plan, the bridge contractor would complete repairs with one leaf

open and the other leaf closed, allowing recreational vessels to pass through the bridge between September 6, 2022, through October 30, 2022. Pursuant to this request, the Coast Guard issued a letter of deviation.

MDOT is now requesting additional maintenance time. Specifically, MDOT is requesting to secure the bridge to masthead navigation from November 1, 2022, through April 30, 2023, and to secure one leaf to masthead navigation, allowing the other leaf to operate normally, from May 1, 2023, through May 26, 2023. At any time, vessels that can safely pass under the bridge without an opening may do so at any time. MDOT's amended request comes at the request of its contractors, who believe the additional time is necessary to complete all necessary maintenance on the bridge.

Adding the November to May work will expand the proposed project beyond 180 days, triggering the need for a rule making process.

Ice formations in the Grand River from December to April prevent safe navigation of recreational vessel traffic through the bridge; commercial vessel traffic has not visited past the U.S. Route 31 Bridge, mile 2.89, over the Grand River, at Grand Haven, Michigan, in several years. All recreational vessels that normally pass through the bridge can safely pass with one leaf open.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, the NPRM

has not been reviewed by the Office of Management and Budget (OMB).

The bridge will be secured to masthead navigation during times when ice formation in the river generally prevents safe navigation to recreational vessels. The maintenance in the late fall will accommodate all vessels with one-leaf operations and has been advertised in the Local Notice to Mariners and distributed by email to over 300 Great Lakes waterway users for over 10 months without comment.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**

section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule will not result in such

an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under paragraph L49, of Chapter 3, Table3-1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this proposed rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal Decision Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2022-0689 in the search box and click "Search." Next, look for this document in

the Search Results column, and click on it. Then click on the Comment option. If your material cannot be submitted using <https://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published of any posting or updates to the docket.

We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; and Department of Homeland Security Delegation No. 0170.1.

2. In § 117.633, add paragraph (d) to read as follows:

§ 117.633 Grand River.

* * * * *

(d) The U.S. Route 31 Bridge, mile 2.89, over the Grand River: from November 1, 2022, through April 30, 2023, both leaves will be secured to masted navigation and from May 1, 2023, through May 26, 2023, one leaf will be secured to masted navigation and the other leaf will operate normally. Vessels that can safely pass under the bridge without an opening may do so at any time.

M. J. Johnston,
Rear Admiral, U.S. Coast Guard,
Commander, Ninth Coast Guard District.

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